IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.25 OF 2005
IN
WRIT PETITION NO.177 OF 2002

WITH

CIVIL APPLICATION NO.26 OF 2003
AND
CIVIL APPLICATION NO.27 OF 2003

Chairman, Ramabai Magasvargiya Mahila Grahak Sanstha, Raigad ...Appellant
V/s.
State of Maharashtra & Ors. ...Respondents

Mr.P.A. Pol, Advocate, for the Appellant.
Mr.C.R. Sonawane, AGP, for Respondent Nos.1 to 4.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.

DATE : 4TH MAY, 2007.

P.C. :

1. Heard. Admit.

2. Delay condoned.

3. The learned AGP appears for Respondent Nos.1 to 4. In our view it is not necessary for this Court to issue notice to Respondent No.5 as no notice was issued to Respondent No.5 by the learned Single Judge

as the Writ Petition was dismissed in limini.

4. By consent, heard the learned counsel for the Appellant and the learned AGP for Respondent Nos.1 to 4.

5. This Letters Patent Appeal has been filed by the Appellant, who was the petitioner before the learned Single Judge, impugning the order passed by the Hon'ble Minister thereby rejecting his claim for the ration shop and alloting it to Respondent No.5.

6. The learned Single Judge by his order dated 05.06.2002 passed in Writ Petition No.177 of 2002 observed that "the petitioner challenged the allotment of ration shop by the State Government. Admitted position is that the petitioner has not challenged the allotment of ration shop to Respondent No.5 before any of the authorities which are competent to hear the challenges under the Rules. Therefore, petition of the petitioner cannot be entertained. The Petition is rejected."

7. It has been pointed out to this Court that the learned Single Judge erred in holding that the allotment of ration shop to Respondent No.5 has not

been challenged before any of the authorities which the petitioner could not challenge as the allotment itself was made by the Hon'ble Minister by his order dated 06.07.2001, which is annexed as Exhibit 'C' to the petition, and therefore, the only forum available to the petitioner was to approach the High Court in its writ jurisdiction.

8. We are, therefore, satisfied that the impugned order deserves to be quashed and set aside. We, therefore, allow the Appeal and quash and set aside the impugned order and remit the matter to the learned Single Judge for considering the Writ Petition on its merits and dispose of the same in accordance with law.

9. In view of the disposal of the Letters Patent Appeal, the Civil Applications do not survive and stand disposed of.

[J.N. PATEL, J.]

[A.A. SAYED, J.]